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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,646	10/09/2001	Tetsuo Nishikawa	Nanjo C-1	6210

7590 09/07/2007
FLYNN, THIEL, BOUTELL & TANIS, P.C.
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Kalamazoo, MI 49008-1699

EXAMINER

SHOSHO, CALLIE E

ART UNIT	PAPER NUMBER
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1714

MAIL DATE	DELIVERY MODE
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09/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/973,646	Applicant(s) NISHIKAWA ET AL.	
	Examiner Callie E. Shosho	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,12 and 16-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,12 and 16-23 is/are rejected.
- 7) ☒ Claim(s) 24-29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. All outstanding rejections except for those described below are overcome by applicants' amendment filed 6/22/07.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3-7, 12, 16-19, and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (U.S. 4,698,059) taken in view of the evidence given in Bussink et al. (U.S. 4,267,096).

The rejection is adequately set forth in paragraph 3 of the office action mailed 4/2/07 and is incorporated here by reference.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (U.S. 4,698,059) in view of Emde (U.S. 4,692,152).

The rejection is adequately set forth in paragraph 8 of the office action mailed 4/2/07 and is incorporated here by reference.

Response to Arguments

6. Applicants' arguments regarding DeMeo et al. (U.S. 2005/0211930) and Kawamura et al. (U.S. 5,908,884) have been considered but they are moot in view of the discontinuation of the use of these references against the present claims.

7. Applicants' arguments filed 6/22/07 have been fully considered but, with the exception of arguments relating to DeMeo et al. and Kawamura et al., they are not persuasive.

Specifically, applicants argue that Johnson is not a relevant reference against the present claims given that the composition of Johnson et al. requires the use of polysiloxane and mineral oil as essential components which are not required in the present claims.

It is agreed that the composition of Johnson requires polysiloxane and mineral oil. However, in light of the open language of claims 1, 3-7, 12, and 16-23, i.e. composition "comprising" or thermoplastic resin molded article "comprising", the use of such ingredients is clearly not excluded from the scope of claims 1, 3-7, 12, and 16-23. There is nothing within the scope of these claims that excludes the use of polysiloxane or mineral oil.

It is noted that Johnson is not applied against newly added claims 27-29 which recite "consisting of" claim language with respect to the composition or molded article given that such transitional language clearly excludes the use of polysiloxane and mineral oil from the scope of the claims.

Allowable Subject Matter

8. Claims 24-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 24-29 would be allowable if rewritten in independent form as described above given that the composition and molded article of the “closest” prior art Johnson (U.S. 4,698,059) requires the use of polysiloxane and mineral oil which is outside the scope of present claims 27-29 that require thermoplastic composition “consisting of” styrene-based elastomer and tungsten powder (claims 27-28) or molded article “consisting of” styrene-based elastomer, tungsten powder, and optionally at least one member (claim 29). Further, the composition and molded article of Johnson requires the use of 80-90% tungsten powder which is outside the scope of claims 24-26 that each require the use of 93.5-97.5% tungsten powder.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

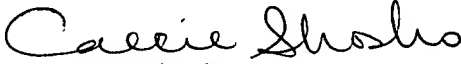
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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Callie E. Shosho whose telephone number is 571-272-1123. The examiner can normally be reached on Monday-Friday (6:30-4:00) Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Callie E. Shosho
Primary Examiner
Art Unit 1714

CS
9/2/07